

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter of C. T. and N. T.,)	
Petitioners)	
and)	CAUSE NO. 040601-33
The Indiana High School Athletic Assoc. (IHSAA),)	
Respondent)	
)	
Review Conducted Pursuant to)	Closed Hearing
I.C. 20-5-63 <i>et seq.</i>)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Procedural History

C. T. and N. T.(hereafter, Petitioners) are twins. They were born on February 2, 1985. They have completed three years of high school at Westfield High School in the Westfield-Washington Schools (hereafter, the School). Both will be seniors during the 2004-2005 school year. They have participated and hope to continue to participate in athletic contests sanctioned by Respondent. Unfortunately, they will turn twenty (20) years of age on February 2, 2005. This would render them ineligible for continued participation past that date based on Respondent's **Rule C-4-1** (The Age Rule).¹

Petitioners² sought a waiver of the Age Rule by writing to Respondent's Commissioner. In their letter, Petitioners recited that they had been retained in two grades in elementary school due to various learning disabilities. As a result, they will turn 20 years of age during their senior year. At present, they are diagnosed as having Attention Deficit Disorder (ADD). It is anticipated that they will graduate with their class at the end of the 2004-2005 school year. Petitioners assert that they have met all other eligibility requirements except the Age Rule.

¹The IHSAA has promulgated a series of by-laws as a part of its sanctioning procedures for interscholastic athletic competition. Some by-laws apply to specific genders ("B" for Boys, "G" for Girls), but many of the by-laws are "common" to all potential athletes and, hence, begin with "C." **Rule C-4-1** provides as follows:

A student who is or shall be twenty (20) years of age prior to or on the scheduled date of the IHSAA state finals in a sport shall be ineligible for interschool athletic competition in that sport; a student who is nineteen (19) years of age on the scheduled date of the IHSAA state finals in a sport shall be eligible as to age for interschool athletic competition in that sport. (All references are to the 2003-2004 by-laws.)

²Anytime the term "Petitioners" is used, it will include Petitioners' parents, unless otherwise noted.

The Commissioner responded on July 30, 2003, denying the request for the waiver, adding that even should he be so inclined, this is a Rule that he is not authorized to waive.³ Both the School and the Petitioners, by letters of August 12, 2003, sought review of the Commissioner's decision by Respondent's Review Committee, as provided by Respondent's **Rule C-17-4**. The Commissioner notified the School and the Petitioners by letter dated September 11, 2003, that the Review Committee would meet to discuss this matter on October 9, 2003.⁴

Respondent's Review Committee met on October 9, 2003. It issued its decision on October 15, 2003, affirming the decision of the Commissioner. The Review Committee noted the Petitioners were adopted in 1986. Prior to their adoption, they may have suffered from fetal alcohol syndrome, low birth weight, poor health and nutrition and early lack of parental interaction. They experienced academic difficulties early on and were retained in kindergarten and first grade. They have not been retained since and have made academic gains. At one time, their IQ's were considered significantly below average, with a mental age as much as a two and one-half (2 1/2) years below the chronological age of their peers.

Petitioners have been active in athletics from the first grade, notably in basketball. Petitioners started on their School's softball team their freshman and sophomore years, playing the outfield. If permitted to play their senior year, they would likely be starters but they would not be the best players on the team. Petitioners played on the School's freshman basketball team as freshmen and saw limited action on the junior varsity team during their sophomore year.

The Review Committee also stated that the "purposes and goals of the Age Rule" include:

- "(i) establishing a uniform, bright-line rule for all IHSAA member schools and their students to follow;
- (ii) discouraging the practice of red-shirting, the exploitation of student athletes and the repeating of grades of high school as a subterfuge for otherwise improper athletic-motivated conduct;

³**Rule C-17-8.1** (The Hardship Rule) grants the Commissioner or the Commissioner's designee to "set aside the effect of any Rule when the affected party establishes" to the satisfaction of Respondent that all of the following conditions have been met:

- a. Strict enforcement of the Rule in the particular case will not serve to accomplish the purpose of the Rule;
- b. The spirit of the Rule has not been violated; and
- c. There exists in the particular case circumstances showing an undue hardship that would result from enforcement of the Rule.

However, The Hardship Rule does not apply to "Rules 4 [Age], 12 [Enrollment and Attendance] and 18 [Scholarship]."

⁴It should be noted that the request for a waiver was made prior to the Petitioners' junior year in high school. Even though such a request was premature, the Commissioner reviewed the request, noting that the factors that would affect their eligibility would be unchanged when they reached their senior year.

- (iii) having the maximum number of team positions available and creating interschool athletic opportunities for younger student athletes who are of the customary age of students in high school;
- (iv) Promoting competitive equality among member schools by limiting the possibility that a team will gain an unfair competitive advantage over opponents by having older student athletes, who may be physically larger, more mature, experienced and skilled; and
- (v) promoting the health and safety of student athletes of customary high school age, especially in those sports involving contact and those student athletes who are just beginning high school and are substantially younger and less experienced.

The Age Rule limits the participation in high school athletics to participants who are 14 to 19, and customarily of high school age.” Review Committee’s Finding No. 8.

Respondent’s Review Committee reiterated that the Hardship Rule is not available for application to the Age Rule. Even it were available for application, the Review Committee would have found the Petitioners do not meet the criteria for a hardship exception. This alternative decision is based on the fact the Petitioners repeated the first grade at the request of the parents even though they had successfully completed the first grade. There was insufficient evidence to link the retention in first grade to any learning disability on the part of the Petitioners.

To grant Petitioners the requested waiver, the Respondent’s Review Committee determined, would eliminate the established uniform, bright-line rule; would undercut the purpose of discouraging the practice of red-shirting, including the exploitation of student-athletes and the repeating of grades of high school as a subterfuge for otherwise improper athletic-motivated conduct; would interfere with the goal of having the maximum number of team positions available and creating interschool athletic opportunities for younger student-athletes who are of the customary age of students in high school; would negatively impact competitive equality among member schools by permitting a team to gain an unfair competitive advantage over opponents by having older student-athletes who are physically larger, more mature, experienced and skilled; and would undermine the health and safety of student-athletes of customary high school age, especially in those sports involving contact. Review Committee’s Conclusion No. 5(a).

In addition, the Respondent’s Review Committee found that to grant a waiver to the Petitioners would constitute a fundamental alteration of the Respondent’s Rules, as well as the games of basketball and softball for the teams who would compete against Petitioners’ School. “The spirit of the Age Rule is to restrict high school sports to student-athletes who are customarily of high school age.” Review Committee’s Conclusion No. 5(b).

Lastly, Petitioners’ situation is one of ordinary hardship, if any. Ordinary cases of hardship cannot be the subject of a hardship ruling, and here no undue hardship would result from a decision denying a hardship exception. Petitioners will not be prevented from attending School and participating in other extracurricular or curricular activities, including participating in intramural sports or in club sports on in non-interscholastic sports. Review Committee’s Conclusion No. 5(c).

APPEAL TO THE CASE REVIEW PANEL

Petitioners, by counsel, appealed the adverse decision of the Review Committee to the Indiana Case Review Panel (CRP) on June 1, 2004.⁵ The CRP notified the parties by memorandum of June 2, 2004, of their respective hearing rights. The Respondent was asked to forward its record. The Parents were provided with a “Consent to Disclose Student Information.” The Parents, on June 21, 2004, elected to have the hearing proceedings **closed** to the public. A hearing was set for August 3, 2004, in the offices of the Indiana Department of Education.

The parties appeared on August 3, 2004. Both parties were represented by counsel. Petitioner submitted one (1) exhibit, which was marked P-1. This exhibit contains a proposal from the School to the Respondent’s Board of Directors, dated May 3, 2004, suggesting an amendment to the Hardship Rule to, *inter alia*, permit its application to the Age Rule. Respondent submitted two (2) additional exhibits, which were marked R-1 and R-2. These exhibits were the education records of the Petitioners. Neither party posed objections. The exhibits were entered into the record.⁶

The following Findings of Fact and Conclusions of Law are based upon the evidence and testimony presented at the hearing in this matter, as well as the record as a whole. All Findings of Fact are based upon evidence presented that is substantial and reliable. I.C. 4-21.5-3-27(d).

FINDINGS OF FACT

1. N. T. and C. T. are each 19 years old (d/o/b February 2, 1985) and will be seniors during the 2004-2005 school year. They are twins. Both were adopted when they were about one year old. They were born prematurely and had low birth weight. They may have suffered from fetal alcohol syndrome due to alcohol and drug abuse by their birth mother. They also experienced some neglect during their first year of life. Petitioners, despite their age, are not physically imposing. They are somewhat below average in height and weight for a high school female athlete.
2. The adoptive parents noticed developmental delays early on. These delays became more apparent when Petitioners were enrolled in kindergarten. In discussions with kindergarten personnel, it was decided that Petitioners would repeat kindergarten.

⁵The CRP is a nine-member adjudicatory body appointed by the Indiana State Superintendent of Public Instruction. The State Superintendent or her designee serves as the chair. The CRP is a public entity and not a private one. Its function is to review final student-eligibility decisions of the IHSAA when a parent or guardian so requests. Its decisions are to be student-specific, applying only to the case before the CRP. The CRP’s decision does not affect any By-Law of the IHSAA.

⁶John L. Earnest served as the Chair. He was joined by CRP members Pamela A. Hilligoss; James Perkins, Jr.; Michael L. Ross; Earl H. Smith, Jr.; Terry Thompson, and Brad Tucker.

3. Petitioners were enrolled in the first grade in the Westfield-Washington Schools (the School) for the 1992-1993 school year. At the time, Petitioners were seven (7) years old. Although Petitioners struggled academically, Petitioners were not referred for an educational evaluation to determine whether Petitioners would require special education and related services under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 *et seq.*, 34 C.F.R. Part 300, as implemented in Indiana through 511 IAC 7-17 *et seq.* (“Article 7”).⁷
4. After the 1992-1993 school year, Petitioners were retained in the first grade. This decision was proposed primarily by the Parents. C. T. was referred for an educational evaluation, which was completed on January 27, 1994. At the time, C. T. was nine (9) years old. The evaluation revealed marked difficulty in receptive and expressive skills. C. T. was determined by the CCC to be eligible for services under Article 7. She has remained eligible to this date.
5. N. T. was referred for an educational evaluation near the beginning of second grade during the 1994-1995 school year. An educational evaluation was completed on October 7, 1994, and a CCC convened on October 24, 1994. The CCC determined N. T. eligible for services. She has remained eligible for services to this date.
6. From 1994 to 1999, Petitioners were patients of a private-practice speech-language pathologist (SLP). The SLP diagnosed Petitioners as having child aphasia, apraxia, and a central auditory processing disorder (CAPD). The SLP maintains the Petitioners’ academic difficulties are language-based rather than due to any intellectual deficits. The SLP did participate in CCC meetings on behalf of the Petitioners and has assisted Petitioners’ teachers in implementing certain strategies within the classroom to benefit the Petitioners. The School has never identified the Petitioners as having communication disorders (CD).⁸ The SLP stated the parents did not wish to have CD services from the school personnel because of the possible interruption to academic instruction. The Petitioners did utilize assistive technology devices (FM Trainers) for a period of time within the classroom. The parents provided the assistive technology devices. The SLP provided services to the Petitioners during this period of time. The SLP indicated the Petitioners’ respective disabilities are genetic and life-long. They are still present. The SLP was not involved in the decision to retain Petitioners in the first grade.

⁷The current Article 7 was effective as of June 12, 2002. The Article 7 provisions in effect at the time Petitioners were in first grade is not substantively different from the current provisions with respect to “child find,” referral for an educational evaluation, eligibility, identification, development of an Individualized Education Program (IEP) by a Case Conference Committee (CCC), and the establishment of an appropriate educational placement in the “least restrictive environment” (LRE).

⁸See 511 IAC 7-26-3 for the eligibility criteria for “communication disorder.”

7. Petitioners have participated in athletics since first grade. Although average to below-average in athletic ability, participation has been a motivational factor for Petitioners. C. T. has participated in basketball and softball in her first three years of high school. She intends to participate in these sports if she is determined to be eligible. N. T. played basketball her freshman and sophomore years. She did not participate in basketball during her junior year. N. T. did play softball her freshman and sophomore years, and began the season during her junior year. However, she withdrew from participation during the season for medical reasons. Neither has played varsity basketball. N. T. might participate in athletics, if eligible to do so.
8. The high school principal stated the Petitioners are courteous and considerate. They have required accommodations and modifications throughout their high school tenure. Both continue to require accommodations and modifications. They are expected to graduate with their class at the conclusion of the 2004-2005 school year. Petitioners have not required any accommodations or modifications in order to participate in basketball and softball. The principal believes a waiver of the Age Rule would be a reasonable accommodation.⁹ He does not believe Respondent has a mechanism that would accommodate students with disabilities.
9. The high school assistant principal testified that approximately 18 percent of the high school's estimated 1,250 students are eligible for services under Article 7. Of the eligible students, anywhere from 25 to 30 percent participate in interscholastic athletic competition. Despite these numbers, this is the first time she has had to address the Age Rule and its implications. The assistant principal has been involved in the development of Petitioners' respective IEPs. The assistant principal described the Petitioners as having an excellent work ethic. She stated the Petitioners are goal-oriented and benefit from tremendous support from their Parents. She indicated Petitioners would not have been successful academically without the support of Article 7 services.
10. N. T.'s class rank, at the end of her junior year, is 145 out of 277 students. Her grade-point average (GPA) is 2.914. She did not pass the Graduation Qualifying Examination (GQE)¹⁰ when she first took the test during her sophomore year. She has since passed the

⁹The high school principal testified that the School, at the invitation of Respondent's Commissioner, did propose a rule change to Respondent's Board of Directors (see Exhibit P-1) that would permit application of the Hardship Rule to, *inter alia*, the Age Rule. The proposal was unsuccessful. Although disappointed the proposal was not accepted, the high school principal was complimentary of the treatment he and his staff received from Respondent's Commissioner and Board of Directors. The testimony is not so much relevant to the student-eligibility decision before the CRP as it is relevant to the allegation of discrimination. See *infra*.

¹⁰See I.C. 20-10.1-16-13.

GQE. Although identified as having a learning disability (LD),¹¹ she also has a CAPD, possible obsessive-compulsive disorder, and other medical conditions. She is interested in marine biology and photography. She wishes to enroll in college. She has passed the ACT.¹²

11. C. T.'s class rank, at the end of her junior year, is 118 out of 277 with a GPA of 3.208. She did not pass the GQE during her sophomore year but has since passed the test. Besides her LD, she has also been identified as having Attention Deficit Disorder (ADD), CAPD, and other medical conditions. She wishes to attend college. Her interests are in business, education, and sports management. She has not yet passed the ACT.
12. The Petitioners' former softball coach¹³ testified that the School's softball team, although steadily improving, has had difficulty in attracting sufficient numbers of players. During the past two seasons, there have been insufficient numbers to field a freshman or junior varsity team. Last season, only 13 girls even tried out for the team. By the end of the season, there were only 12 players. Neither Petitioner is a star player. Both play outfield and occasionally start. Petitioners do struggle with some of the strategies and concepts involved in the game of softball. They require direction, but they are receptive to such guidance. If Petitioners played this season, this would not give the School a competitive advantage. They are "great teammates" but not necessarily great athletes. Petitioners have worked hard. It would be devastating should they not be able to join their teammates. He does not believe Petitioners have progressed athletically the past two years despite their work ethic and interest. He did not believe Petitioners' relative age will give them any competitive advantage.
13. Even though Petitioners' respective IEPs should have detailed all services to be provided to the Petitioners,¹⁴ testimony indicated Petitioners were receiving considerably more support services, including accommodations and interventions, than their IEPs reflected.
14. Respondent stated the Age Rule is one of its "fundamental rules," which makes waiver unwarranted. Some student-athletes at the high school level are only 14 years of age. A 14-year-old student-athlete is at a physical disadvantage compared to a 20-year-old student-athlete. This poses a health and safety risk. The Age Rule ensures that adults are

¹¹See 511 IAC 7-26-8 for the eligibility criteria for "learning disability."

¹²"ACT" use to stand for "American College Testing." However, in 1996, the company changed its name to "ACT" as its corporate name.

¹³Although a teacher, the softball coach was never a teacher at the School. He was the softball coach for the past three years at the School but resigned the position after the 2003-2004 school year. He has been a softball coach for 17 years.

¹⁴See 511 IAC 7-17-44 and 511 IAC 7-27-6.

not competing against adolescents. Respondent also asserts that there is a “displacement” issue. Adult students—*i.e.*, those who do not meet the Age Rule requirements—displace students on the roster who are age-appropriate for high school. Respondent also represents the Age Rule prevents “red shirting,” a practice where students are retained in earlier grades in order to obtain an athletic advantage when they are older.

15. Although Respondent acknowledges Petitioners are not physically imposing for their age, Respondent believes the displacement issue is still relevant to this case. Respondent further acknowledged that it has no mechanism to waive the Age Rule.
16. Respondent does waive some proscriptions in its by-laws for the benefit of the Indiana School for the Deaf and the Indiana School for the Blind, notably **Rule C-10-1** and its geographic limitations on interstate competition. These waivers are specific to the missions of these schools and are granted in light of the relatively few deaf or blind schools located within the 600-mile round-trip limitation in the by-law. However, Respondent does not waive the Age Rule for either school.

CONCLUSIONS OF LAW

1. Although the IHSAA is a voluntary, not-for-profit corporation and is not a public entity, its decisions with respect to student eligibility to participate in interscholastic athletic competition are considered “state action,” and for this purpose, makes the IHSAA analogous to a quasi-governmental entity. IHSAA v. Carlberg, 694 N.E.2d 222 (Ind. 1997), *reh. den.* (Ind. 1998). The Case Review Panel has been created by the Indiana General Assembly to review final student eligibility decisions with respect to interscholastic athletic competition. I.C. 20-5-63 *et seq.* The Case Review Panel has jurisdiction when a parent or guardian invokes the review function of the Case Review Panel to challenge an application or interpretation by Respondent of one of its by-laws. In the instant matter, the IHSAA has rendered a final determination of student-eligibility adverse to the Student. The Petitioner timely sought review. The Case Review Panel has jurisdiction to review and determine this matter. The Case Review Panel is not limited by any by-law of Respondent. The Case Review Panel is authorized by statute to either uphold, modify, or nullify the Respondent’s adverse eligibility determination.
2. Petitioners assert certain protections or considerations under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* (ADA). Although there were references to or allegations of potential discrimination by Respondent, there was no evidence of such intent. The CRP likely does not have jurisdiction to determine whether an entity or person discriminated against another. In any event, *intent* to discriminate does not factor into the legal analysis. The CRP is guided in relevant part by the decision in Washington v. IHSAA, 181 F.3d 840 (7th Cir. 1999), *cert. den.* 528 U.S. 1046, 120 S. Ct. 579 (1999), a dispute also involving a student with a learning disability. In order for Petitioners to be considered under the ADA, they must have a disability, be “otherwise

qualified” to participate in basketball and softball, and demonstrate that their exclusion from playing basketball and softball is by virtue of their respective disabilities. 181 F.3d at 843. Petitioners’ disability status is conceded. There is more than sufficient testimony and documentary evidence to substantiate the Petitioners have a “disability” and are otherwise “qualified individuals with a disability,” as the term is defined at 42 U.S.C. § 12111(8). Petitioners have had disabilities since birth. The 7th Circuit indicated that, once this threshold is crossed, there is a two-part legal inquiry: (1) Is the rule, without reference to any individual, “generally fundamental and essential”; and (2) Would the individual waiver of the rule be a “reasonable modification because there would be no conflict with the purposes behind the ... rule.” *Id.* at 843-44.¹⁵

3. Respondent’s Review Committee stated the “purposes and goals of the Age Rule” in its ruling:
- (i) establishing a uniform, bright-line rule for all IHSAA member schools and their students to follow;
 - (ii) discouraging the practice of red-shirting, the exploitation of student athletes and the repeating of grades of high school as a subterfuge for otherwise improper athletic-motivated conduct;
 - (iii) having the maximum number of team positions available and creating interschool athletic opportunities for younger student athletes who are of the customary age of students in high school;
 - (iv) Promoting competitive equality among member schools by limiting the possibility that a team will gain an unfair competitive advantage over opponents by having older student athletes, who may be physically larger, more mature, experienced and skilled; and
 - (v) promoting the health and safety of student athletes of customary high school age, especially in those sports involving contact and those student athletes who are just beginning high school and are substantially younger and less experienced.
- Respondent added: “The Age Rule limits the participation in high school athletics to participants who are 14 to 19, and customarily of high school age.” (*Review Committee’s Finding No. 8.*)

The Age Rule is “generally fundamental and essential.” Its purposes and goals are valuable, if not obvious. But “a facially neutral rule adopted for neutral purposes and applied on a neutral basis is not always insulated from ...review.” *Id.* at 847, *n.* 10, citing McPherson v. Michigan High School Athletic Ass’n, 119 F.3d 453 (6th Cir. 1997).

Although the value in a bright-line, uniform rule is advantageous in many respects, the ADA requires a more individualized approach. This would also appear to be the charge to the CRP through I.C. 20-5-63-7. The 7th Circuit noted in Washington that an individualized approach “is consistent with the protections intended by the ADA.... To

¹⁵The Age Rule was not involved in the Washington case. Rather, it was a challenge to the Eight-Semester Rule, **Rule C-12-2**, which presently reads: “After enrollment in the 9th grade for 15 or more school days, students shall be eligible for no more than four (4) consecutive years, or the equivalent (*e.g.*, 12 semesters in a tri-mester plan, *etc.*).”

require a focus on the general purposes behind a rule without considering the effect an exception for a disabled individual would have on those purposes would negate the reason for requiring reasonable exceptions.” 181 F.3d at 851. The Respondent’s limitation of the Hardship Rule so that it does not apply to the Age Rule does not restrict the CRP from reviewing the matter in consideration of these Petitioners. There is no evidence of red-shirting¹⁶ in this case, nor is there any evidence that repeating kindergarten and being retained in first grade was “a subterfuge for otherwise improper athletic-motivated conduct.” “Displacement,” even if a consideration, was not proven by Respondent. It addressed the issue only in a theoretical sense. There is no showing Petitioners would “displace” anyone, especially given the few players available on the softball team. Even if there were proof of younger players vying for positions on the respective teams, the Petitioners are “otherwise qualified” under the ADA because their potential ineligibility is due only because of an application of the Age Rule and no other reason. There is no evidence of an unfair competitive advantage. The Petitioners are not physically larger, more mature, experienced or skilled. Their participation will not pose a health or safety risk to any other student-athlete.

4. Petitioners have satisfied the “causation” requirement by demonstrating that, but for their various disabilities, they would have been eligible for athletic participation in basketball and softball their senior years of high school. The question that remains is whether a waiver of the Age Rule would be a “reasonable modification.” The resolution of this issue “turns on whether waiver of the rule would generally be a fundamental alteration to the purpose of the IHSAA rule or would create an undue financial and administrative burden.” *Id.* at 850. Although there is no evidence Respondent has granted any waivers of the Age Rule in the past, the dangers sought to be prevented by the “purposes and goals” of the Age Rule are not present in this case. A waiver of the Age Rule for Petitioners under the circumstances described herein would not be so at odds with the purposes and goals of the Age Rule so as to create “a fundamental and unreasonable change” in the Rule. See *Id.* This would be particularly so in that any decision of the CRP is case-specific and “does not affect any rule of the association or decision under any rule concerning any student other than the student whose parent referred the case to the panel.” I.C. 20-5-63-7(d).
5. There is no evidence that a waiver of the Age Rule would create an “undue administrative burden” upon Respondent. In fairness, Respondent has not argued that there would be any “undue administrative burden.” This is only the second dispute ever to come before the CRP involving the Age Rule. It is the first involving a student with a disability. This is the first Age Rule dispute for the School. The 7th Circuit noted that Respondent receives very few waiver requests involving students with disabilities.

¹⁶The 7th Circuit defined “red-shirting” as “the practice of slowing a student’s academic pace and postponing his initial participation in competitive athletics in order to permit him to gain physical and athletic maturity before beginning his period of eligibility for competitive athletics.” *Washington*, 181 F.3d at 842, *n.* 2.

Washington was the first student with a learning disability in more than a decade. An individualized analysis in a disability case should not pose a significant additional burden. Id. at 852.

Based on the foregoing Findings of Fact and Conclusions of Law, and following discussion of the merits of the case on the record, the Case Review Panel decided as follows:

ORDER

1. The Respondent's decision to deny eligibility to Petitioners based on the application of the Age Rule is reversed. Petitioners shall be eligible for athletic participation during the 2004-2005 school year. This decision was reached on a 6-1 vote.

DATE: August 9, 2004

/s/ John L. Earnest, Chair
Indiana Case Review Panel

APPEAL RIGHT

Any party aggrieved by the decision of the Case Review Panel has thirty (30) calendar days from receipt of this written decision to seek judicial review in a civil court with jurisdiction, as provided by I.C. 4-21.5-5-5.